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DATE: October, 1997			TO: All Income Maintenance Manual Holders		

This change is being made to incorporate TANF and WV WORKS changes into Chapter 11 of the Manual. In addition, references to GA for DA were removed.

Please pay particular attention to the following:

1. A new trust policy for WV WORKS was added to Section 11.4, FF. It is the same as the SSI-Related Medicaid policy.
2. The WV WORKS vehicle policy was corrected. In addition, the number of the Section was corrected and added to the Table of Contents.

3. A section on jointly-owned assets for WV WORKS was added to Section 11.5.
4. A transfer of assets policy/penalty was added for WV WORKS. It is nearly the same as SSI-Related Medicaid, but there are some variations.

The changes identified above are not the only changes, but they are the major ones. However, minor changes can have an effect on the way you understand any particular policy, so please examine all the changes carefully.

Questions should be directed to the IM Policy Unit in the Office of Family Support.

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11.2 INTRODUCTION

This Chapter contains the policies for determining asset eligibility for Food Stamps, TANF, WV WORKS, AFDC/U Medicaid and most other Medicaid coverage groups. Instructions for determining the value of assets are included.

The following Medicaid coverage groups have no asset test:

- AIDS Patients Programs
- Deemed AFDC-TANF Recipients, except those eligible for \$1 - \$9 TANF check
- Deemed SSI Recipients, except PAC
- Extended Medicaid
- Continuously Eligible Newborns
- Poverty-Level Pregnant Women and Children
- QC
- Transitional Medicaid

A. ESTABLISHING DATE OF ASSET ELIGIBILITY

1. SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, and SLIMB

The assets determination for these applications must be made as of the first moment of the month of application. The client is not eligible for any month in which assets are in excess of the maximum, as of the first moment of the month. Changes in countable assets do not affect eligibility unless retained into the first moment of the following month.

EXAMPLE: A client applies for SSI-Related Medicaid on April 21. On April 1, he had a savings account of \$1,500 and two automobiles: a 1985 Ford LTD that he used for obtaining medical treatment and a 1982 Chevrolet Impala valued at \$575. He advises the Worker that, on April 10, he withdrew \$125 from his savings account to pay for automobile repairs. His total assets on April 1 were \$2,075. Even though his assets decreased to \$1,950, which is under the \$2,000 asset maximum, on April 10, his assets as of the first moment of the month were in excess of the asset limit, and he is not eligible.

Conversely, if the client's assets, as of the first moment of the month, are within the asset limit, and during the month his assets increase to

above the assets limit, he is still eligible for that month.

2. All Others

The asset determination must be made as of the date of application.

However, when medical coverage is backdated, the asset determination must be made from the date for which Medicaid coverage is requested. All other eligibility requirements must also be met at that time. When there is an increase in assets which exceeds the limit, the case is closed.

B. WHEN INCOME BECOMES AN ASSET

Money that is counted as income when received, becomes an asset if retained into the month after the month of receipt.

EXCEPTION: The proceeds from the sale of an excluded home are treated differently. See item E below.

C. DETERMINATION OF THE VALUE OF COUNTABLE ASSETS

Only the individual's equity or portion of actual ownership is considered, unless otherwise specified in Section 11.4 or 11.5.

For SSI-Related Medicaid, CDCS, PAC, QDWI, QMB and SLIMB: Pre-payment penalties are also deducted from the CMV.

D. ACCESSIBILITY OF ASSETS

A client may not have access to some assets. To be considered an asset, the item must be owned by or available to the client and available for disposition. If the client cannot legally dispose of the item, it is not his

LIST OF ASSETS

A. AGENT ORANGE COMPENSATION

No	No	No
----	----	----

All payments from the Agent Orange Settlement fund or any other fund established pursuant to the settlement are excluded.

B. BANK ACCOUNTS AND CD'S

Yes *	Yes *	Yes *
-------	-------	-------

1. Savings Accounts
2. Christmas Clubs
3. Checking Accounts
4. Certificates of Deposits (CD's)

The amount deposited, plus any accrued interest, less any penalties imposed for early withdrawal, is counted as an asset.

Some funds held in certificate of deposit accounts cannot be withdrawn prior to maturity under any circumstances. In this situation, the certificate is not an asset until the first month after it matures.

NOTE: For a joint checking or savings account or jointly owned time deposit, refer to the appropriate program section.

The current month's income deposited in accounts is not counted as an asset for the month in which it is deposited. See Section 11.2. Checks dated or posted before the usual check receipt date are treated as if they were received in the usual month of receipt.

Food Stamps: If excluded funds are kept in a bank account with other non-excluded money, these funds are excluded for six months from the date they were placed in the account. After six months, they are no longer excluded and all money in the account is an asset.
EXCEPTION: Educational funds.

5. Deposits by Others

Food Stamps: When a non-benefit group member deposits his own money, for his own use, into the account of a benefit group member, the amount remaining in the

LIST OF ASSETS

account on the first day of the next calendar month is counted as an asset.

TANF, AFDC/U Medicaid and AFDC/U-Related Medicaid: When a non-benefit group member's funds are deposited into a benefit group member's account, any portion of that deposit that remains in the account in the month following the deposit month is excluded.

WV WORKS: When a non-benefit group member's funds are deposited into a benefit group member's account, any portion of that deposit that remains in the account in the month following the deposit month is counted as an asset for the benefit group.

SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB: Funds deposited into the account of a benefit group member by a non-benefit group member are an asset as of the first moment of the month following the month of deposit.

C. BONDS - U. S. SAVINGS

Yes	Yes	Yes *
-----	-----	-------

The cash-in value is counted.

SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB: A U.S. Savings Bond is not an asset during its six-month minimum retention period. As of the first moment of the seventh month, the bond is considered an asset. If an individual receives a bond as a gift, see Chapter 10.

D. BURIAL FUNDS AND PLOTS

1. Burial Funds

See Section 11.5

Money set aside to pay for funerals and related expenses may be counted as an asset. When set up as a trust, prepaid burials can be paid for by cash, insurance policies or annuities.

For treatment of burial funds by program, see Section 11.5.

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2. Burial Plots

No *	No *	No *
------	------	------

Food Stamps, AFDC/U Medicaid, TANF, WV WORKS, AFDC/U-Related Medicaid: One (1) burial plot per benefit group member is excluded.

SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB:
Burial spaces which are intended for the use of the

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individual is needed to surrender a policy for its full cash surrender value, and the consent cannot be obtained, the policy is not an asset. Assignment of a life insurance policy to another individual means consent of that individual is required before it can be cashed.

S. LIEAP (Low-Income Energy Assistance Program) AND ENERGY CRISIS INTERVENTION PAYMENTS

No	No	No
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T. LOANS, NON-EDUCATIONAL

Yes *	Yes *	Yes *
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Food Stamps: Loans for which there is a verbal or written statement to repay are excluded.

TANF, AFDC/U Medicaid, AFDC/U-Related Medicaid: Loans which meet the definition of Bona Fide loans, as found in Chapter 10, are excluded as assets.

WV WORKS: Loans are normally counted as income. See Chapter 10. However, when a loan is excluded from consideration as income and has not been used for the intended purpose within 3 months of the date the money is received, the funds remaining at the end of 3 months are counted as an asset. The remaining amount of a loan which was counted as income in the month of receipt, becomes an asset in the month following the month of receipt.

SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB: Loans received under conditions which preclude their use for living expenses are excluded.

U. LUMP SUM PAYMENTS

Yes *	No	No
-------	----	----

Lump sum payments are not counted as assets when counted as income. See Chapter 10.

When a lump-sum payment is received prior to the month of application, the amount retained during the month of application is an asset. When a lump sum payment is received by someone being added to an active benefit group, the amount retained during his month of application is an asset.

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Food Stamps: Non-recurring lump sum payments are counted as assets. For recurring lump sum payments, see Chapter 10.

V. MUTUAL FUNDS

Yes	Yes	Yes
-----	-----	-----

W. NAZI PERSECUTION VICTIMS PAYMENTS

No	No	No
----	----	----

These may include, but are not limited to:

- Austrian Social Insurance Payments
- German Reparations Payments
- Netherlands WUV Payments

X. PASS ACCOUNT

Yes *	Yes	No
-------	-----	----

Food Stamps: Any PASS account developed for an SSI recipient by SSA is excluded.

See Chapter 10.

Y. PENSION FUNDS

1. Cash Value of Pension Funds

No	No	No
----	----	----

The cash value of pension accounts is excluded, unless removed from the account.

2. IRA and KEOGH

Yes	Yes	Yes
-----	-----	-----

Individual Retirement Accounts (IRA's) and funds held in KEOGH plans, which do not involve the benefit group member in a contractual relationship with individuals who are not benefit group members, are counted as assets. The amount counted is the total cash value of the account or plan, minus the amount of the penalty, if any, that would be applied for the early withdrawal of the entire amount.

If the KEOGH Plan is such that individual participants may make withdrawals without affecting other parties, who are not benefit group members, in any way, the benefit group

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member's funds in the KEOGH Plan, minus any penalty affecting him only, are counted as an asset. The exclusion of the KEOGH Plan involving more than one person does not apply if the other persons involved in the Plan are members of the benefit group.

Z. PRODUCE AND LIVESTOCK FOR HOME
CONSUMPTION

No	No	No
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AA. REAL PROPERTY

Also see Business and Non-Business Personal Property.

11.4 LIST OF ASSETS

NOTE: See Chapter 17 for Long-Term Care Programs.

The following alphabetical list identifies items which are considered in determining asset eligibility. Beside each item, there are three boxes. The yes or no in the boxes indicates if the item is an asset for the programs as listed below:

Box 1: Food Stamps

Box 2: TANF, WV WORKS, AFDC/U Medicaid, AFDC/U-Related Medicaid

Box 3: SSI-Related Medicaid, CDCS, PAC,
QDWI, QMB, SLIMB

EXAMPLE:

1	2	3
---	---	---

When a yes or no in the box shows an asterisk(*) beside it, special conditions apply, and the narrative must be consulted.

Unless specified in the narrative or marked with an asterisk(*), the comments apply to all programs listed.

For any program not listed, see Section 11.2.

See Chapter 4 for verification information.

11.3 MAXIMUM ALLOWABLE ASSETS

To be eligible for Income Maintenance Programs, the total amount of countable assets cannot exceed the amounts which are listed in the following chart:

FOOD STAMPS	AFDC/U MEDICAID, TANF	WV WORKS	SSI-RELATED MEDICAID, AFDC/U-RELATED MEDICAID, PAC, CDCS		QDWI QMB SLIMB	
			Size of Benefit Group	Asset Level	Size of Benefit Group	Asset Level
\$2,000 - all benefit groups except as below. \$3,000 - at least one benefit group member is age 60 or over, regardless of the size of the benefit group. NOTE: When all members of the benefit group are recipients of TANF, WV WORKS or SSI, the asset test is presumed to be met.	\$1,000 - regardless of the number in the benefit group.	\$2,000 - regardless of the number in the benefit group.	1	\$2,000	1	\$4,000
			2	\$3,000	2	\$6,000
			Add \$50 to the asset maximum for each additional member of the benefit group.		NOTE: In cases involving a husband and wife who are living together, only one of whom is eligible, the asset level for 2 persons is used for their combined non-excluded assets.	
			NOTE: For SSI-Related Medicaid only: In cases involving a husband and wife who are living together, only one of whom is eligible, the asset level for 2 persons is used for their combined non-excluded assets.			
			NOTE: For AFDC/U-Related Medicaid: Use the asset limit for the appropriate BFU size.			

NOTE: The following Medicaid coverage groups have no asset test:

- AIDS Patient Programs
- Deemed AFDC-TANF Recipients, except those eligible for \$1 - \$9 TANF check
- Deemed SSI Recipients, except PAC
- PL Pregnant Women & Children
- Extended Medicaid
- Continuously Eligible Newborns
- QC
- Transitional Medicaid

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only, such as, corn, tomatoes, chickens, cattle. This property also includes personal property necessary to perform daily functions, but not passenger cars, trucks, boats, or other special vehicles. Property used to produce goods or services or property necessary to perform daily functions is excluded, if the individual's equity in the property does not exceed \$6,000. The amount of equity in excess of \$6,000 is counted toward the asset limit. Personal property which is required by the individual's employer for work is not counted, regardless of value, while the individual is employed. Examples of this type of personal property include tools, safety equipment, uniforms and similar items.

EXAMPLE: Bill owns a small, unimproved lot several blocks from his home. He uses the lot, which is valued at \$4,800, to grow vegetables and fruit, only for his own consumption. Since his equity in the property is less than \$6,000, the property is excluded as necessary to self-support.

- c. Other Real Property

Yes *	Yes *	Yes *
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The equity in property, not otherwise excluded, is an asset.

Food Stamps: Real property which the client is making a good faith effort to sell is excluded. A good faith effort means that the property is currently available for sale through a real estate agent or through publication.

TANF, WV WORKS and AFDC/U Medicaid: Any non-excluded real property which the benefit group is making a good faith effort to sell is excluded for six months. A good faith effort means that the property is currently available for sale through a real estate agent or through publication.

The only time this exclusion applies is when the client has agreed in writing, using form ES-22, to dispose of the property within the six-month exclusion period. Any cash assistance payments made to the benefit group during this disposition period must be repaid to the Department once the asset is disposed of.

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If, for any reason, the client fails to dispose of the property, or the case is closed during the exclusion period, all of the payments made to the benefit group must be repaid. If, at the end of the 6-month period, the client has failed to dispose of the property, it must be considered an asset.

AFDC/U-Related Medicaid: The equity in real property, other than homestead, is an asset.

SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB: When the client's non-excluded real property does not meet the \$6,000 or the \$6,000/6% limitation, the equity in the property is an asset. See items a and b above.

4. Life Estates

No	No	Yes *
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Under a life estate, an individual who owns property transfers ownership of that property to another individual while retaining certain rights to that property for the rest of his life, or the life of another person. Generally, a life estate entitles the owner of the life estate to possess, use, and obtain profits from the property, as long as he lives. However, actual ownership of the property has been transferred.

When the client establishes a life estate with his own property, the property itself is no longer an asset because ownership has been transferred. However, the value of the life estate is treated as an asset when it is not the client's principal place of residence. The value is determined as follows:

- Step 1: Determine the CMV of the property
- Step 2: Determine the age of the life estate holder, as of his last birthday, and the life estate factor for that age found in Appendix A.
- Step 3: Multiply the CMV by the life estate factor determined in Step 2.

The resulting amount is counted as an asset for the life estate holder.

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NOTE: When the life estate is jointly owned, the CMV is divided by the number of owners. Steps 2 and 3 above are then followed.

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member has the power to revoke the trust arrangement or change the name of the beneficiary before the next redetermination; and

- The trustee administering the funds is either:
 - A court, or an institution, corporation or organization which is not under the direction or ownership of any benefit group member, or
 - An individual appointed by the court who has court-imposed limitations placed on his use of the funds which meet all other fund requirements found in this item (item 1); and
- Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, influence of a benefit group member; and
- The funds held in irrevocable trust are either:
 - Established from the benefit group's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay education or medical expenses of any person named by the benefit group creating the trust, or
 - Established from non-benefit group funds by a non-benefit group member.

When withdrawals are made from a trust fund, see Chapter 10 for policy on treatment as income.

Dividends which the benefit group has the option of either receiving as income or reinvesting in the trust are not assets. See Chapter 10 for treatment of dividends.

A client cannot be required to petition the court for the use of the trust. In addition, this fund cannot be presumed to be available to the client.

2. TANF

A trust is treated as an asset to the extent that it is available to the client or for his benefit. Clauses included in a trust which limit the trustee's use of the funds (i.e., exculpatory clauses) are recognized and the

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amount of funds affected by such exculpatory clauses, excluded as an asset. Irrevocable trusts are also excluded, regardless of the amount. There is no penalty for the placement of funds in an irrevocable trust.

For the check only, when it is possible for the client to petition the court to receive money from the trust, this is considered a potential resource. See Chapter 5.

3. AFDC/U Medicaid, SSI Medicaid, AFDC/U-Related and SSI-Related Medicaid, CDCS, PAC, QDWI, QMB and SLIMB

NOTE: This section applies to any trust established on or after 8/11/93. For trusts prior to 8/11/93, see Appendix B of this Chapter.

For burial trusts, see Section 11.5.

Generally, all trusts are counted as assets, regardless of their purpose, restrictions on distributions or on the trustee's discretion to distribute the funds, whether acted on or not. There are exceptions to this general rule and there is a difference in the treatment of trusts established by a will and those not established by a will. In addition, sometimes revocable and irrevocable trusts are treated differently. Details are found below.

If a trust is made up of the client's resources and those of one or more other persons, only the amount established with the client's resources is counted.

For purposes of this item (item 3), the terms "individual" or "client" include:

- The client
- His spouse
- Any person, including a court or administrative body, with legal authority to act in place of, or on behalf of, the individual or the individual's spouse
- Any person, including a court or administrative body, acting at the direction of, or upon the request of, the individual or the individual's spouse.

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be made, the Worker must not take into account when payments can be made. When a trust provides, in some manner, that a payment can be made, even though that payment may be sometime in the future, the trust must be treated as providing that payment can be made from the trust.

(b) Undue Hardship

There is a hardship provision which allows the Department to exclude a trust when counting it results in undue hardship for the client. All decisions about undue hardship are made by the Director, Office of Family Support. Any requests for such a determination are submitted in writing and must show complete details about the undue hardship which will result. See "Undue Hardship" in the Definitions section.

4. WV WORKS

NOTE: This section applies to any trust established on or after 1/1/97, regardless of the date the county changed from TANF to WV WORKS. However, no penalty may be applied until the case has been converted from TANF to WV WORKS.

For burial trusts, also see Section 11.5.

Generally, all trusts are counted as assets, regardless of their purpose, restrictions on distributions or on the trustee's discretion to distribute the funds, whether acted on or not. There are exceptions to this general rule and there is a difference in the treatment of trusts established by a will and those not established by a will. In addition, sometimes revocable and irrevocable trusts are treated differently. Details are found below.

If a trust is made up of the client's resources and those of one or more other persons, only the amount established with the client's resources is counted.

For purposes of this item (item 3), the terms "individual" or "client" include:

- The client

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- His spouse
- Any person, including a court or administrative body, with legal authority to act in place of, or on behalf of, the individual or the individual's spouse
- Any person, including a court or administrative body, acting at the direction of, or upon the request of, the individual or the individual's spouse.

a. Trusts Established By Will

A trust is treated as an asset to the extent that it is available to the client or for his benefit. Clauses included in a trust which limit the trustee's use of the funds (i.e., exculpatory clauses) are recognized and the amount of funds affected by such exculpatory clauses, is excluded. Irrevocable trusts are also excluded, regardless of the amount. There is no penalty for the placement of funds in an irrevocable trust.

b. Trusts Not Established By Will

When the following two conditions are met, the trust policy contained below in this item is applied. If the two conditions are not met, the fund is treated as any other bank account.

- An individual has established a trust if his resources were used to form all or part of the corpus of the trust.
- Any of the following persons established the trust for the individual by any vehicle other than by will:
 - Individual
 - Individual's spouse
 - A person, including a court or administrative body, with legal authority to act in place of, or on behalf of, the individual or the individual's spouse
 - A person, including any court or administrative body, acting at the

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direction of, or upon the request, of the individual or the individual's spouse.

EXCEPTIONS: In the following three trust situations, the trust is totally excluded. In addition, establishment of these trusts is not treated as an uncompensated transfer of resources, as defined in Section 11.7,D.

- A trust containing the assets of an individual, under age 65, who is disabled,* and which is established for his benefit by a parent, grandparent, legal guardian, or a court. To qualify for the exception, a trust must contain a provision that the State will receive all amounts remaining in the trust upon the death of the individual, up to the total WV WORKS payments made to him or on his behalf. The exception continues even after the individual becomes age 65, as long as he continues to be disabled.*
- A trust which contains the assets of an individual who is disabled* and which meets all of the following conditions. This is commonly known as a special needs trust.
 - The trust is established and managed by a non-profit association.
 - A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools the funds in these accounts.
 - Accounts in the trusts are established solely for the benefit of the disabled* individual.
 - Accounts in the trusts are established by the individual, his parent, grandparent, legal guardian or by a court.
 - The trust must include a specific provision that amounts remaining in the individual's account that are not retained by the trust upon the client's death, must be used to reimburse the

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State for WV WORKS payments which were made on the individual's behalf.

- Burial trusts which meet all of the following conditions:
 - The individual signs a contract with the funeral director promising prepayment in return for specific funeral merchandise and services.
 - The contract is irrevocable.
 - The individual pays the agreed upon amount to the funeral director in the form of a direct cash payment, purchase or transfer of a life insurance policy or annuity which is assigned to the funeral director.
 - The funeral director, in turn, places the preneed payment or device into a trust or escrow account which the funeral director establishes himself. If the client establishes the trust or other device himself, the amount may be considered a transfer of resources. See Section 11.7,D.
- * For these purposes, the SSA definition of disability is used. Therefore, any person medically approved for or receiving SSI, based on disability, meets the definition, as well as persons who have been determined disabled by the Medical Review Team (MRT). If no disability determination has been made, the case must be submitted for a MRT decision. See Chapter 12.

(1) Revocable Trusts

Once the Worker determines that the trust was not established by a will and does not meet one of the exceptions, above, the following rules apply:

- The corpus of the trust is considered an available asset.

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- Payments from the trust to the client or for his benefit are counted as income.

(2) Irrevocable Trusts

Once the Worker determines the trust was not established by a will and does not meet one of the exceptions above, the following rules apply:

- If there are any circumstances under which payments from the trust could be made to the client or for his benefit, that portion of the corpus, or the interest, is an asset.
- If payments are made from the available corpus, or interest, to the client or for his benefit, the amount is treated as unearned income.

(a) Payments for the Client's Benefit

Throughout this item (item 4) "payments made on behalf of the client" or "for his benefit" means payments of any kind to another entity, such that the client derives some benefit from the payment. This may include, but is not limited to, clothing, television, payments for services or care rendered, whether medical or personal, payments to maintain a home, etc. Any payment for the benefit of the client is counted, even if it is not customarily counted in determining WV WORKS eligibility.

In determining whether payments can or cannot be made from a trust, take into account any restrictions on payments, such as use restrictions, exculpatory clauses, limits on trustee discretion, etc., that may be included in the trust.

EXAMPLE: A trust provides that the trustee can disburse only \$1,000 out of a \$20,000 trust, only the \$1,000 is treated as a payment that could be made to the client or for his benefit. The remaining \$19,000 is treated as an amount which

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cannot, under any circumstances, be paid to, or for the benefit of the individual.

EXAMPLE: A trust contains \$50,000 that the trustee can disburse only in the event that the grantor needs a heart transplant. The full amount is payment that could be made under some circumstances, even though the likelihood of payment is remote if the client does not have heart problems.

In determining whether payments can or cannot be made from a trust, the Worker must take into account restrictions included in the trust on how payments can be made, the Worker must not take into account when payments can be made. When a trust provides, in some manner, that a payment can be made, even though that payment may be sometime in the future, the trust must be treated as providing that payment can be made from the trust.

(b) Undue Hardship

There is a hardship provision which allows the Department to exclude a trust when counting it results in undue hardship for the client. All decisions about undue hardship are made by the Director, Office of Family Support. Any requests for such a determination are submitted in writing and must show complete details about the undue hardship which will result. See "Undue Hardship" in the Definitions section.

GG. UNIFORM GIFTS TO MINORS ACT FUNDS

Yes	Yes	No
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HH. VEHICLES

Yes *	Yes *	Yes *
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The owner of a vehicle is generally the individual to whom it is titled. However, when the title of a vehicle is not in the client's name, but the client indicates it is his, the

LIST OF ASSETS

vehicle is counted as the client's asset. If the title is in the client's name, and he indicates the vehicle no longer belongs to him, and the name on the title has not been changed, the vehicle is presumed to be his, unless he can prove otherwise. Only those vehicles of members of the benefit group and disqualified individuals who would otherwise be required to be included are considered when determining vehicle assets.

A leased vehicle, in which the individual has no equity and which he cannot sell, is excluded.

The NADA trade-in value is usually used to determine the CMV of the vehicle for Food Stamps, AFDC/U Medicaid, TANF, WV WORKS and AFDC/U-Related Medicaid. The NADA retail value is usually used to determine the CMV of the vehicle for SSI-Related Medicaid, CDCS, PAC, QDWI, QMB and SLIMB.

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Neither the trade-in value nor the retail value is increased or decreased by adding or subtracting the value of low or high mileage or other factors, such as optional equipment or special equipment for the disabled.

1. Food Stamps

Any benefit group which claims that the NADA trade-in value does not represent the true value of the vehicle, must be given the opportunity to acquire verification, at its own expense, from a reliable source. Also, benefit groups are asked to acquire verification of the value of licensed antique, custom made or classic vehicles. Once the estimate of the vehicle is obtained, it is accepted unless the Supervisor believes the value or source of the estimate is questionable. The client is then required to provide one more estimate at his expense. The two estimates are averaged to arrive at the CMV.

NOTE: The exclusion from assets in Section 11.5, Low Profit from Sale of an Asset, does not apply to vehicles.

There are five (5) steps in determining vehicle assets. Count only licensed vehicles until Step 4.

STEP 1: TOTALLY EXEMPT LICENSED VEHICLES

The value of a licensed vehicle(s) is totally excluded if:

- Over 50% of the use of the vehicle is for income-producing purposes, such as a taxi.*

Vehicles which have previously been used by a self-employed farmer, but are no longer used over 50% of the time for farming, are excluded for one year from the date the farmer terminates his farming self-employment.*

- The vehicle annually produces income consistent with its CMV, even if used on a seasonal basis, such as a truck used in a produce business or for hauling coal.*
- The vehicle is necessary to transport a physically disabled benefit group member, regardless of the purpose of such transportation. It need not be

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2. TANF, AFDC/U Medicaid and AFDC/U-Related Medicaid

STEP 1: WHEN THE BENEFIT GROUP HAS ONLY ONE VEHICLE

One (1) vehicle is excluded, provided the equity does not exceed \$1,500. When the equity of the vehicle is greater than \$1,500, the excess amount is an asset. If the client disagrees with the NADA value or the vehicle is not listed in the NADA book, procedures in Step 2 are followed to determine equity.

STEP 2: DETERMINING EQUITY IN ALL VEHICLES

The listed NADA trade-in value of the vehicle is used, unless one of the following conditions exists:

- The client disagrees with the listed NADA value.

The client is responsible for obtaining one estimate on form ES-V-1, Vehicle Estimate. The Department assumes any expense incurred in obtaining this estimate, using form DF-67. If the Department has no objection to the client's estimate, it is accepted as the value used in determining equity. The NADA value is not used once an estimate has been obtained.

If the Department determines that the estimate obtained by the client is unreasonable, a second estimate is obtained by the Worker from a qualified appraiser of the Department's choice. Form DF-67 is used to pay for the estimate. This estimate and the client's estimate are averaged to arrive at a value used in determining countable equity.

- The vehicle is not listed in the NADA Book or the NADA Official Older Car Guide due to year of manufacture. In this situation use the following instructions.

New and Older Models: The client's statement of the value of the vehicle(s) is accepted unless it appears incorrect. In this situation the Worker requires that the client obtain one estimate. Form ES-V-1 is used, and payment, when required, is made by the Department, using a DF-67. If the vehicle

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is listed as junk with the Department of Motor Vehicles, as indicated on the title of the vehicle, a sale value of \$25 is assigned to it, and that amount used as the value.

In determining the asset value of the vehicle(s), only the equity is counted. Once the value is determined, the amount owed is subtracted from the value to determine the countable equity.

STEP 3: DETERMINING ASSET VALUE OF ALL VEHICLES

After equity is determined for each vehicle, \$1,500 is subtracted from the one with the highest equity. Any amount in excess of the \$1,500 is an asset for that vehicle. In addition, the equity in all other vehicles is counted in its entirety. See Step 1 above.

EXAMPLE: A client has three (3) vehicles. The NADA values are:

Vehicle A	Vehicle B	Vehicle C
\$2,500	\$1,500	\$1,750

The client disagrees with the NADA values of Vehicles B and C. Estimates are obtained for Vehicles B and C as follows:

Vehicle B	Vehicle C
\$900	\$1,200

The Department disagrees with the estimate obtained for Vehicle B and obtains another estimate of \$1,100.

The values used to determine countable equity are found by using the NADA value of Vehicle A, accepting the client-obtained estimate of Vehicle C and by averaging

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the two estimates on Vehicle B. Therefore, the countable equity is determined as follows:

Vehicle A		Vehicle B		Vehicle C	
\$2,500		\$1,000		\$1,200	
<u>- 300</u>	Owed	<u>- 400</u>	Owed	<u>- 500</u>	Owed
\$2,200	Equity	\$ 600	Equity	\$ 700	Equity

Vehicle A is the vehicle with the highest equity; Vehicle A receives the \$1,500 exclusion.

Vehicle A	Vehicle B	Vehicle C
\$2,200	\$600	\$700
<u>-1,500</u>		
\$ 700		
Counted toward the asset limit.	Counted toward the asset limit.	Counted toward the asset limit.

Total Vehicle Asset Value = \$2,000. Case is ineligible.

End of TANF, AFDC/U Medicaid and
AFDC/U-Related Medicaid Vehicle Policy

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3. SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB

One vehicle is excluded from consideration as an asset for these coverage groups, if certain criteria regarding value and use are met.

When there is more than one vehicle, always apply the vehicle exclusions in a manner which benefits the client. For instance, the car with the highest value may not be the vehicle used to obtain medical treatment; however, it may be excluded for that use, if it is to the advantage of the client.

STEP 1: EXCLUSION BASED ON USE

One vehicle is totally excluded, regardless of its value, if the benefit group or an individual whose assets are used to determine the benefit group's eligibility uses it as follows:

- For employment; or
- For medical treatment of a specific or regular medical problem; or
- If it is modified for operation by, or specially equipped for, the transportation of a handicapped person; or
- It is necessary to provide transportation to perform essential daily activities because of climate, terrain, distance or similar factors; or
- It is essential to achieving self-support of a benefit group member or an individual whose assets are used to determine the benefit group's eligibility, as described in an approved PASS.

STEP 2: EXCLUSION BASED ON VALUE

If no vehicle is excluded in Step 1, the first \$4,500 of the CMV of one vehicle is excluded. When the client's only vehicle cannot be excluded in Step 1 and the CMV is \$4,500 or less, the vehicle is totally excluded. When the CMV is more than \$4,500, the amount in excess of

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\$4,500 is counted as an asset. Equity value is not considered in this step.

When the client disagrees with the NADA retail value of the vehicle, he may obtain another estimate in writing at his own expense. If he provides the statement, it is averaged with the NADA value to arrive at the CMV.

NOTE: Any estimate the client provides must be furnished by a knowledgeable, disinterested source, such as, but not limited to, a domestic or foreign used car or truck dealer, or an automobile insurance company.

Older Vehicles: When the vehicle in question is too old to be listed in the NADA book, the Worker must use the value for the oldest listed vehicle of like make and model. If the client disagrees with this amount, he must be advised that he can obtain an estimate from another source. If there is a charge for the appraisal estimate, the client is responsible for the charge.

STEP 3: VALUE OF OTHER VEHICLES

If the benefit group or an individual whose assets are used to determine the benefit group's eligibility has any other vehicles not excluded in Steps 1 or 2 above, the equity of these vehicles is an asset.

EXAMPLE: John Smith owns a 1990 Toyota Celica with a CMV of \$8,350, and his equity is \$500. He also owns a 1988 Volkswagen with a CMV and equity value of \$2,700, which exceeds the asset limit. Based upon Mr. Smith's statement, neither vehicle can be excluded based on use. The \$4,500 CMV exclusion is applied to the Volkswagen instead of the Toyota because it benefits the client. Only the equity value of the 1990 Toyota counts toward the asset limit.

EXAMPLE: Mr. Smith has the same vehicles as above. However, he says he usually uses the Toyota Celica to drive to the doctor. If the Toyota is totally excluded, the equity value of the Volkswagen makes him ineligible. Thus, the value of the Volkswagen is totally excluded based on use, and the \$500 equity value of the Toyota, along with other countable assets, does not make him ineligible.

End of SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB
Vehicle Policy

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4. WV WORKS

NOTE: Equity is not a factor in determining countable vehicle assets.

STEP 1: EXCLUSION OF ONE VEHICLE

One (1) vehicle is excluded regardless of value. If the client has more than one vehicle, he chooses which vehicle to exclude. The Fair Market Value of all other vehicles is an asset.

STEP 2: DETERMINING FAIR MARKET VALUE (FMV) OF ALL NON-EXCLUDED VEHICLES

The NADA trade-in value of the vehicle is used, unless one of the following conditions exists:

- The client disagrees with the listed NADA value.

The client is responsible for obtaining one estimate on form ES-V-1, Vehicle Estimate. The Department assumes any expense incurred in obtaining this estimate, using form DF-67. If the Department has no objection to the client's estimate, it is accepted as the FMV. The NADA value is not used once an estimate of the value has been obtained.

If the Department determines that the estimate obtained by the client is unreasonable, a second estimate is obtained by the Worker from a qualified appraiser of the Department's choice. Form DF-67 is used to pay for the second estimate. This estimate and the client's estimate are averaged to arrive at the FMV.

- The vehicle is not listed in the NADA Book or the NADA Official Older Car Guide due to year of manufacture. In this situation use the following instructions.

New and Older Models: The client's statement of the value of the vehicle(s) is accepted unless it appears incorrect. In this situation the Worker requires that the client obtain one estimate. Form ES-V-1 is used, and payment, when required, is made by the Department, using a DF-67. If the vehicle

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is listed as junk with the Department of Motor Vehicles, as indicated on the title of the vehicle, a sale value of \$25 is assigned to it, and that amount used as the value.

STEP 3: DETERMINING ASSET VALUE OF ALL NON-EXCLUDED VEHICLES

The FMV as determined in Step 2 above, of all non-excluded vehicles is counted in its entirety, regardless of the client's equity.

End of WV WORKS Vehicle Policy

11.5 ASSETS OF PERSONS IN SPECIAL CIRCUMSTANCES

A. FOOD STAMPS

NOTE: When an asset is deemed, the full equity value is deemed with no disregards or deductions applied.

1. Assets of Disqualified/Ineligible Individuals

The assets of non-benefit group members are not counted in determining the eligibility of the benefit group. However, disqualified individuals must have their assets deemed to the benefit group. See Section 9.1,A for a list of disqualified individuals.

The same asset exclusions which apply to benefit group members also apply to disqualified persons.

2. Assets of Ineligible Students

If a student is found ineligible to participate in the Program because he does not meet the criteria for student eligibility, his assets are excluded. See Chapter 9.

3. Jointly Owned Assets

The treatment of jointly owned assets becomes significant when all the joint owners are not included in the benefit group. An asset is considered jointly owned when the client has an investment in it or his name appears on it.

a. All Joint Owners Are In The Benefit Group

If all joint owners are in the benefit group, the total equity is counted, unless one of the joint owners is a TANF, WV WORKS or SSI recipient. See item 4 below.

b. All Joint Owners Are Not In The Benefit Group

If all of the joint owners are not in the benefit group, the asset owned jointly is considered available in its entirety to the benefit group, unless it can be demonstrated that such assets are inaccessible. If the benefit group can demonstrate that it has access to only a portion of the asset, the value of that portion is an asset.

NOTE: When a client cannot dispose of his share of an asset without the consent of the other owner(s), and the consent is withheld, the asset is excluded as inaccessible.

EXAMPLE: Three people own a piece of property valued at \$20,000. One of them applies for Food Stamps. The property cannot be sold without the consent of all three owners and each person may sell his interest only to the other two owners. The other two owners do not want to buy the applicant's interest in the property at this time. The property is excluded.

EXAMPLE: Same situation as above except that the agreement does not stipulate that only the other two owners may buy the interest in the property. One-third of the equity in the property is assigned to the client as an asset.

c. Residents of Shelters for Battered Women and Children

Assets are considered inaccessible to persons residing in shelters for battered women and children when:

- The assets are jointly owned by such persons and those with whom they lived prior to entering the shelter; and
- The shelter resident's access is dependent upon the agreement of a joint owner who still resides in the former household.

4. Special Considerations Depending on the Benefit Group Composition

a. Categorical Eligibility

Food Stamp benefit groups composed entirely of TANF, WV WORKS and/or SSI recipients (pure benefit groups) are Categorically Eligible and, as such, are not required to meet an asset eligibility test.

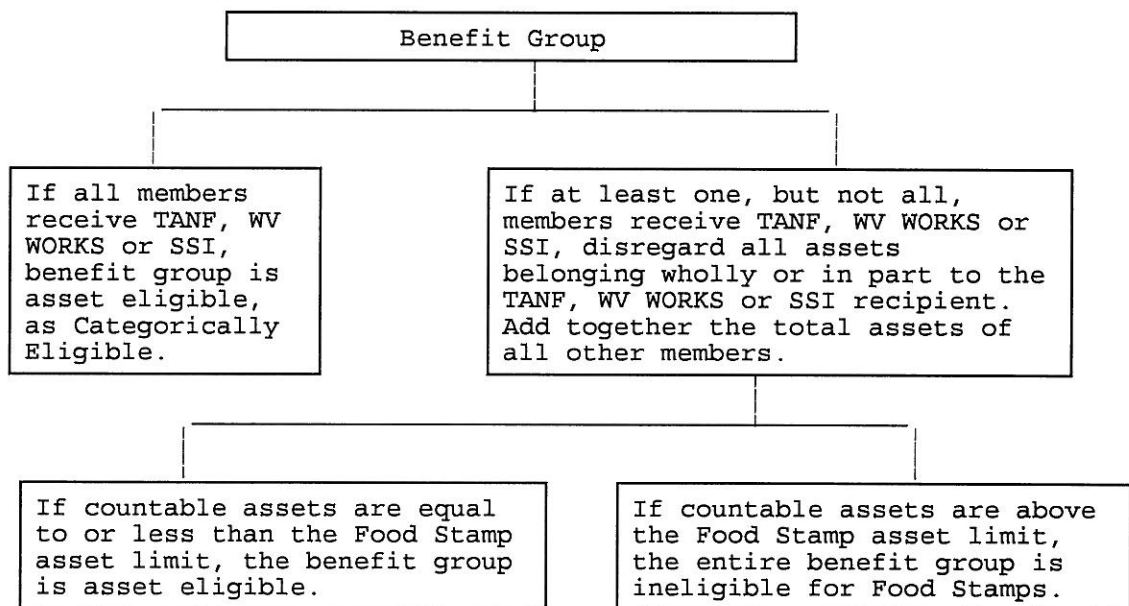
b. Food Stamp Benefit Groups Containing at Least One TANF, WV WORKS or SSI Recipient

Recipients of TANF, WV WORKS or SSI, who live with at least one person who does not receive one of these benefits, are in a mixed Food Stamp benefit

group and, therefore, must meet an asset eligibility test. However, some assets of a TANF, WV WORKS or SSI recipient may be excluded. See item c below.

c. Asset Determination Based on Benefit Group Composition

The process of determining asset eligibility for the benefit groups specified in items a and b above is charted below:



NOTE: The asset limits for the Food Stamp Program, as found in Section 11.3, apply.

5. Retroactive Payments

These monies are counted as an asset when retained into the month following the month of receipt. **EXCEPTION:** When SSA requires the establishment of a dedicated account for past-due, monthly SSI payments, the amount in the dedicated fund is an excluded asset. This applies, when based on the amount, SSA is required to deposit the funds directly in the dedicated account and when funds are deposited there at the discretion of the representative payee. See Chapter 10 for treatment of disbursements from the dedicated account.

6. Low Profit From The Sale of An Asset

In addition to assets which may be considered inaccessible according to the provisions in item 3 above, an asset which meets one of the following criteria is considered inaccessible and is, therefore, excluded because it cannot be sold for a significant return.

- The asset has an expected sale price of less than one half of the benefit group's applicable asset limit; or
- The cost of selling the asset will likely result in a return of less than one half of the benefit group's applicable asset limit. The benefit group's ownership interest must also be considered when determining the potential return.

This applies to a single asset, not to a combination of assets.

NOTE: This provision does not apply to vehicles, stocks, bonds and negotiable financial instruments.

NOTE: An asset cannot be subdivided solely to obtain an exclusion as inaccessible.

7. Burial Funds

Burial funds are excluded for Food Stamp purposes, provided they are in an irrevocable trust. Otherwise, they are assets.

B. TANF, WV WORKS, AFDC/U MEDICAID and AFDC/U-RELATED MEDICAID

NOTE: When an asset is deemed, the full countable value is deemed with no disregards or deductions applied.

1. Assets of Disqualified/Ineligible Individuals

a. TANF and AFDC/U Medicaid

The assets of disqualified parents are counted in their entirety for the benefit group. Assets of other ineligible persons, including stepparents, are not deemed. When a parent and an ineligible person jointly own an asset, see item 3 below.

b. AFDC/U-Related Medicaid

NOTE: Assets of the ineligible stepparent are deemed to the parent, but never to the stepchildren.

The asset limit used for the benefit group is based on the size of the BFU. Assets of the members of the BFU are counted, except that the assets of a sibling are never counted for his sibling(s) and the assets of a child are never counted for his parents.

EXAMPLE: A mother and three children are included in the AFDC-Related Medicaid benefit group. Her husband who is the stepfather of the recipient children, and his two dependent children are in the home. The asset limit for the mother is the asset limit for a 5 person BFU. The asset limit for the children is the asset limit for a 4 person BFU.

c. WV WORKS

The assets of disqualified individuals, who would otherwise be required to be included in the benefit group, are counted as if they were members of the benefit group, i.e., the WV WORKS asset exclusions are applied and the remainder is counted. Assets of other ineligible persons are not deemed. For jointly owned assets, see item 3,b below.

2. Assets of Ineligible Students

Student status has no bearing on asset eligibility.

3. Jointly Owned Assets

Also see Section 11.2.

a. TANF, AFDC/U Medicaid and AFDC/U-Related Medicaid

Treatment of jointly owned assets becomes significant when all the joint owners are not included in the benefit group. For AFDC/U-Related Medicaid, all references to benefit group in the following item should be read as BFU.

(1) All Joint Owners in the Benefit Group

If all joint owners are in the benefit group, the total equity in the asset is counted as an asset for the benefit group.

(2) All Joint Owners Not in the Benefit Group

If all joint owners are not in the benefit group, the following general rules apply:

- If a non-SSI recipient parent, is in the home and is not included in the benefit group, his assets are available to his spouse and children in their entirety.
- The assets available to the benefit group from the ineligible parent are:
 - The value of the assets owned solely by the ineligible parent, and
 - The asset value assigned to him as a result of joint ownership.
- The assets considered available to the benefit group from the ineligible spouse, who is not a parent of the dependent children, is the asset value assigned to the eligible spouse as a result of joint ownership with the ineligible spouse.
- The assets considered available to the benefit group from other joint ownership is the countable asset value assigned to the benefit group member as a result of the joint ownership plus any other assets owned solely by benefit group members.

EXAMPLE: A woman receives TANF for herself and her children from a previous marriage. She is now remarried and living with her husband. She and her current husband jointly own all their assets (John Smith or Mary Smith). Their countable assets total \$3,000. All of this amount is counted as an asset because the woman is in the benefit group, and because the jointly owned assets are

considered available to her in their entirety.

EXAMPLE: Same situation as above except that the woman is not included in the benefit group. Because the jointly owned assets are considered hers in their entirety, and her children are in the benefit group, all of the \$3,000 in assets is counted.

EXAMPLE: A woman, separated from her husband, receives TANF for herself and her children. She and her husband jointly owned property and neither can sell his interest in it. Her husband refuses to sell the property and divide the money. The property is excluded, but it is treated as a potential resource for TANF purposes.

EXAMPLE: A woman and her 3 children apply for TANF. The woman owns her homestead property and another piece of land valued at \$600. In addition, she and her sister jointly own property valued at \$750. The deed shows the owners as Betty and Wilma Smith. They are trying to sell the property. The value assigned to the applicant is \$975, i.e., the total value of the land she owns alone plus 1/2 of the value of the jointly-owned property.

(3) Assets Jointly Owned by TANF Recipient and SSI Recipient

Treatment of assets jointly owned with an SSI recipient depends on the type of asset.

(a) Bank Accounts

When the joint owner, who is an SSI recipient, does not successfully rebut the presumption of ownership through SSA, all account funds are considered to belong totally to the SSI recipient. Otherwise, the portion that SSA determines not be his due to his successful rebuttal is considered to belong to the other joint owner(s).

(b) Other Assets

For assets other than bank accounts, unless there is evidence to the contrary, assume that each owner owns only his fractional interest of the shared asset.

b. WV WORKS

Treatment of jointly owned assets becomes significant when all the joint owners are not included in the benefit group.

(1) All Joint Owners in the Benefit Group

If all joint owners are in the benefit group, the total countable value of the asset is counted as an asset for the benefit group.

(2) All Joint Owners Not in the Benefit Group

If all joint owners are not in the benefit group, the following general rules apply:

- The non-excluded assets of a disqualified individual, who would otherwise be required to be included, are available to his spouse and children in their entirety.
- The assets available to the benefit group from the disqualified individual are:
 - The value of the assets owned solely by the disqualified individual; and
 - The asset value assigned to the disqualified individual as a result of joint ownership.
- The assets considered available to the benefit group from other joint ownership is the countable asset value assigned to the benefit group member as a result of the joint ownership, plus any other assets owned solely by benefit group members.

EXAMPLE: A WV WORKS benefit group consists of a mother, her 2 children and her husband, who is a stepparent to the children. The mother and her husband are convicted of selling drugs, but receive probation. The mother owns a vehicle with a FMV of \$18,000 and a piece of property she owns jointly with her brother with a total value of \$400. Her husband owns a vehicle valued at \$700. Even though neither adult qualifies to be included in the benefit group, their assets are counted for the children as follows: Husband's vehicle valued at \$700 + \$200 for 1/2 the value of the jointly owned property. The mother's vehicle is excluded.

EXAMPLE: A woman receives WV WORKS for herself and her child. Her husband, who is the child's stepfather, is disqualified. The woman and her husband own a piece of property in Ohio. They own this property jointly with the woman's brother, who currently lives in a trailer on the property. Each own an equal share of the property which has a FMV of \$1,550. Each person's share of the FMV of the property is \$516.66. The woman's share is counted as an asset because she is included in the benefit group. The stepfather, who would normally be required to be included in the benefit group, is disqualified, but his share still counts for the benefit group. The woman's brother's share is not counted as an asset; he does not live with the benefit group, is not included and is not required to be included. The total amount counted as an asset from this property for the benefit group is \$1,033.32 or \$1,033.

For other examples, see item a above.

4. Special Considerations Depending on Benefit Group Composition

For AFDC/U-Related Medicaid Only: Assets of a child are never counted for sibling(s) or for a parent(s), even though the child is included in the BFU of his sibling(s) and parent(s).

5. Retroactive Payments

Retroactive payments are counted as an asset when retained into the month following the month of receipt.

6. Low Profit From The Sale of An Asset

The Food Stamp provision for low profit from the sale of an asset does not apply.

7. Burial Funds

a. TANF and WV WORKS (Check Only)

Burial funds of up to \$1,500 for each benefit group member may be excluded, provided any amount in an irrevocable burial trust is excluded in its entirety first. This limits the amount of other burial funds. If the irrevocable trust is \$1,500 or more, no other burial funds may be excluded. If the irrevocable trust is less than \$1,500, the difference between \$1,500 and the irrevocable trust may be excluded. To qualify for all or a portion of the \$1,500 exclusion, burial funds must be formal agreements, such as a burial contract, burial trust, or other funeral arrangements. Bank accounts, money set aside for burial and the cash surrender value of life insurance policies are not considered burial funds; they are countable assets.

b. AFDC/U Medicaid and AFDC/U-Related Medicaid

See item C,7 below. For these coverage groups, the \$3,000 limit on burial funds applies to each member of the benefit group.

C. SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB

NOTE: When an asset is deemed, the full equity value is deemed with no disregards or deductions applied.

1. Assets of Disqualified/Ineligible Individuals

NOTE: There are no deeming provisions for the CDCS coverage group.

Assets of disqualified/ineligible individuals are deemed. The method of deeming depends on whether the individual is an adult or a child.

a. Adults

Assets of an SSI-Related individual and his spouse living with him are added together and compared to the coverage group asset level for two (2).

b. Children

When the child lives with one parent and there is no stepparent, all assets of the parent which exceed the asset limit for one person are deemed to the child. The child's assets are then compared to the asset limit for one. When the child is living with both parents or a parent and stepparent, all assets of the parent(s) and/or stepparent which exceed the limit for two are deemed to the child. The child's assets are then compared to the asset limit for one.

EXAMPLE: A 10-year-old child is applying for SSI-Related Medicaid. He is living with his mother, his stepfather, and two minor dependent sisters, none of whom are Medicaid eligible. The child's assets are \$500. The combined assets of the mother and stepfather are \$4,000. The asset limit for 2 is \$3,000. Assets of \$1000 are deemed to the child whose total assets are now \$1500. The asset limit for one person is used to determine the child's asset eligibility.

2. Assets of Ineligible Students

Student status has no bearing on asset eligibility.

3. Jointly Owned Assets

The treatment of jointly owned assets depends upon the relationship of the joint owners and whether or not all the joint owners are included in the benefit group. This is explained below.

There are 5 instances in which the full equity of a jointly owned asset is not counted for each owner. These are detailed in items a-c and e below and in Section 11.2,D when joint ownership is indicated by use of the word "and" to connect all owners.

See Section 11.4 for information concerning joint ownership of Life Estates.

a. Joint Ownership by Spouses

For spouses, joint ownership is not the deciding factor.

(1) Spouses Who Live Together

For spouses who live together, the assets of one spouse are counted in their entirety for the other spouse, even when they are not actually available. The asset limit for two is used.

(2) Spouses Who Do Not Live Together

For spouses who do not live together, only the jointly owned assets that are accessible to the spouse are counted toward the asset limit. The asset limit for one is used. See Section 11.2.

11.6 DETERMINING COUNTABLE ASSETS

A. FOOD STAMPS

The countable assets of the benefit group include all assets of the members of the benefit group and any disqualified individuals.

B. TANF, WV WORKS, AFDC/U MEDICAID, AFDC/U-RELATED MEDICAID

1. TANF, WV WORKS, AFDC/U Medicaid

The countable assets of the benefit group include all assets of the members of the benefit group and any disqualified individuals, who would otherwise be required to be included.

2. AFDC/U-Related Medicaid

The countable assets used for the benefit group include all assets of the members of the BFU, except that the assets of a child are not counted for his sibling(s) or for his parent(s).

C. SSI-RELATED MEDICAID, CDCS, PAC, QDWI, QMB, SLIMB

1. Adults

For SSI-Related Medicaid, PAC, QDWI, QMB and SLIMB coverage groups, to determine the countable assets of the benefit group, the assets of spouses, who are living together, are combined.

2. Children

a. SSI-Related Medicaid

When the child lives with one parent, and there is no stepparent, all assets of the parent which exceed the asset limit for one person are deemed to the child. The child's assets are then compared to the asset limit for one. When the child is living with both parents, or a parent and stepparent, all assets of the parent(s) and/or stepparent which exceed the limit for two are deemed to the child. The child's assets are compared to the asset limit for one.

b. CDCS

For CDCS, only the child's own assets are counted.

11.7 TRANSFER OF ASSETS

A. FOOD STAMPS

There is a penalty when a benefit group member or a disqualified individual knowingly transfers assets for the purpose of qualifying for the Food Stamp Program. Supervisory approval is required before notification of disqualification is sent to the client.

1. Applicants

If the applicant has transferred assets within the three-month period immediately preceding the date of application, the benefit group is disqualified from participation in the Program for up to one year from the date of discovery of the transfer.

2. Recipients

If a recipient transfers an asset, the benefit group is disqualified from participation for up to one year from the date of discovery of the transfer.

Eligibility is not affected by transfers of assets:

- Which would otherwise not affect eligibility, such as personal effects, excluded vehicles, etc., or
- Which are sold or traded at or near the CMV, or
- Which are transferred between members of the Food Stamp benefit group, or
- Which are transferred for other purposes.

EXAMPLE: Placing funds in an irrevocable burial trust fund.

The length of the disqualification period is based on the amount by which the client's total retained assets and those transferred exceed the appropriate asset limit.

EXAMPLE: If a one-person benefit group, with a bank account of \$1,500, transfers bonds with a cash value of \$1,000, the amount transferred is \$500. The \$1,500 bank account plus \$1,000 in bonds equals \$2,500. Subtract the \$2,000 asset limit from this amount to arrive at the \$500.

The chart below is used to determine the disqualification period:

<u>Amount in Excess of the Asset Limit</u>	<u>Disqualification Period</u>
0 - 249.99	1 month
250 - 999.99	3 months
1,000 - 2,999.99	6 months
3,000 - 4,999.99	9 months
5,000 - and up	12 months

The disqualification period begins as follows:

- Application: The month of application.
- Active Case: With the first issuance after discovery, when the adverse action notice period permits. Otherwise, the following month.
- Closed Case: If the transfer occurs prior to closure, disqualification begins when the benefit group reapplies and is found otherwise eligible. If the transfer occurs after closure, the client is treated the same as any other applicant upon reapplication.

EXAMPLE: A one person benefit group has \$1,750 in a bank account. He transferred ownership of a vehicle with a CMV of \$5,000 to qualify for Food Stamps. To determine his disqualification period, the first \$4,600 of the vehicle's CMV is exempt and \$400 is an asset. Combine the \$1,750 bank account and \$400 vehicle asset value to determine the client's countable assets of \$2,150. The countable assets of \$2,150 less the \$2,000 asset limit equals the amount in excess of the asset limit or \$150. The disqualification period is one month.

B. TANF

There is no transfer of assets penalty.

C. MEDICAID

There is no transfer of assets penalty for Medicaid, except when a Medicaid recipient, who receives Medicaid under a coverage group that requires an asset test, applies for or receives long term care services. See Chapter 17.

D. WV WORKS

NOTE: The following policy is used for transfers of assets made on or after 1/1/97 regardless of the date the county changed from TANF to WV WORKS. However, no penalty may be applied until the case has been converted from TANF to WV WORKS. There is no penalty for transferring assets prior to that date.

1. Definitions

For purposes of this item (item D), the following definitions apply.

- Fair Market Value (FMV): An estimate of the value of an asset, if sold at the prevailing price at the time it was actually transferred.

For an asset to be considered transferred for FMV, or to be considered transferred for valuable consideration, the compensation received for the asset must be in a tangible form, with intrinsic value. A transfer for love and consideration, for example, is not considered a transfer for FMV. Also, while relatives and family members legitimately can be paid for care they provide to the individual, it is presumed that services provided for free, at the time, were intended to be provided without compensation. Therefore, a transfer to a relative for care provided in the past normally is not a transfer of assets for FMV. However, an individual may rebut this presumption.

- For the Sole Benefit Of: A transfer is considered to be for the sole benefit of a spouse, disabled child, or a disabled individual under age 65, if the transfer is arranged in such a way that no individual, except the spouse, child or individual, can benefit from the transferred asset(s) in any way, either at the time of the transfer, or at any time in the future, except as provided below. The agreement must be in writing,

Similarly, a trust is considered to be established for the sole benefit of one of these individuals if the trust benefits no one but the individual, either at the time of the establishment of the trust, or any time in the

future, except as provided below. However, the trust may provide for reasonable compensation for a trustee to manage the trust, as well as for reasonable costs associated with investing or otherwise managing the funds or property in the trust. In defining reasonable compensation, consider the amount of time and effort involved in managing a trust of the size involved, as well as the prevailing rate of compensation, if any, for managing a trust of similar size and complexity.

If a beneficiary is named to receive the funds remaining in a trust upon the individual's death, the transfer is considered made for the sole benefit of the individual if the Department is named as the primary beneficiary for up to the amount paid in benefits to the individual. The designated beneficiary receives any remaining amount.

- Look-Back Date: The look-back date is the earliest date for which a penalty for transferring assets for less than FMV can be applied. Penalties can be applied for transfers which take place on or after the look-back date. Penalties cannot be applied for transfers which take place prior to the look-back date.

When an individual applies more than once (e.g., he applies and is denied due to excess assets and applies again later), the look-back date is based on the first date on which the individual applied for WV WORKS.

2. Look-Back Period

The length of time for which the Worker looks back for any assets transfers depends upon whether or not a trust fund was involved.

a. Trust Amounts Treated As Uncompensated Transfers

The look-back period is 60 months for amounts in revocable or irrevocable trusts that are considered transferred. The time period begins the month the client applies for WV WORKS.

b. Other Transfers

The look-back period is 36 months. The time period begins the month the client applies for or is converted to, WV WORKS.

3. Permissible Transfers

The following transfers do not result in a penalty for transferring assets.

a. Transfer to a Trust

When a benefit group member transfers assets to a trust that is excluded from consideration as an asset, no penalty is applied.

b. Transferred Assets Returned

When all assets transferred for less than FMV have been returned to the client, no penalty is applied. However, if a penalty has already been applied or has already started, a retroactive adjustment back to the beginning of the penalty period is required. The client is not necessarily asset-eligible once the resources are returned.

If part of such assets are returned, the penalty period is adjusted accordingly.

c. Client Intended Fair Market Return or Other Valuable Consideration

When the client can demonstrate that he intended to dispose of the asset for FMV or for other valuable consideration, no penalty is applied.

d. Transfer Was Not To Qualify For WV WORKS

When the asset(s) was transferred exclusively for a purpose other than to qualify for WV WORKS, no penalty is applied.

e. Denial Would Result in Undue Hardship

When it is determined that denial of eligibility would work an undue hardship on the client, no penalty is applied. Decisions about what constitutes undue hardship are made by the

Director of the OFS Policy Unit. Requests for consideration must be submitted in writing to the OFS Policy Unit with details about the anticipated undue hardship.

4. Transfers Which Are Not Permissible

All transfers not specifically excluded from the application of a penalty result in application of a penalty. This also applies to jointly owned assets. The jointly owned asset, or the affected portion of it, is considered transferred by the client when any action is taken that reduces or eliminates the client's ownership or control of the resource.

5. Transfer With Retention of A Life Estate

A transfer of property with the retention of a life estate interest is treated as an uncompensated transfer.

To determine if a penalty is assessed and the length of the penalty, the Worker must compute the value of the transferred asset and of the life estate, then calculate the difference between the two.

Step 1: To determine the value of the transferred asset, subtract any loans, mortgages or other encumbrances from the CMV of the transferred asset.

Step 2: Determine the age of the life estate holder as of his last birthday and the life estate factor for that age found in Appendix A of this Chapter. Multiply the CMV of the transferred asset by the life estate factor. This is the value of the life estate.

Step 3: Subtract the Step 2 amount from the Step 1 amount. The result is the uncompensated value of the transfer.

Step 4: Divide the Step 3 amount by 100% current FPL for the benefit group size. The result is the number of months the penalty covers.

6. Transfer To Purchase An Annuity

Establishment of an annuity is sometimes treated as a transfer of assets, depending on whether or not the annuity is actuarially sound. The average number of years of expected life remaining for the individual who benefits from the annuity must coincide with the life of the annuity for it to be actuarially sound and, thus, not treated as an uncompensated transfer of assets. If the individual is not reasonably expected to live longer than the guarantee period of the annuity, the individual will not receive FMV. The annuity is not, then, actuarially sound and a transfer of assets for less than FMV has taken place.

The penalty is considered to have occurred at the time the annuity was purchased. Only the amount that is not actuarially sound is treated as an uncompensated transfer. Life Expectancy Tables by sex are found in Appendix E of Chapter 17.

EXAMPLE: A 30-year-old father who won \$500,000 in the lottery, purchases a \$500,000 annuity which is to be paid over 40 years. His life expectancy, according to Appendix E of Chapter 17, is 44.06 years. The annuity is actuarially sound so no transfer of resources has taken place.

EXAMPLE: A 60-year-old grandmother who is the caretaker for her grandchildren, requests to be included in the payment. She purchases a \$50,000 annuity to be paid over 25 years. According to Appendix E of Chapter 17, her life expectancy is only 22.86 years. Therefore, the amount which will be paid out by the annuity for 2.14 years is considered an uncompensated transfer of assets which took place at the time the annuity was purchased.

7. Transfer Penalty

The transfer of assets penalty is ineligibility for a WV WORKS payment.

a. Start of the Penalty

The penalty period starts the month in which the asset is transferred, as long as that month does not occur in any other period of ineligibility due to a transfer of assets penalty. If the month the asset is transferred

falls into another such penalty period, the penalty period begins the month after the previous penalty period ends.

When a single asset is transferred, or a number of assets are transferred at the same time, the penalty period is determined by adding together the total uncompensated value of the asset(s) and dividing as shown below. When resources are transferred at different times, the following general guidelines are used.

(1) When Penalty Periods Would Overlap

When assets have been transferred in amounts and/or frequency that would make the calculated penalty periods overlap, add together the value of all assets transferred, and divide by 100% FPL for the benefit group size. This produces a single penalty period which begins on the first day of the month in which the first transfer was made.

EXAMPLE: An individual transfers \$10,000 in January, \$10,000 in February and \$10,000 in March. Calculated individually, based on a 100% FPL of \$1,111 a month, the penalty for the 1st transfer is from January through September, the 2nd is from February through October and the 3rd is from March through November. Because these periods overlap, the Worker must calculate the penalty periods by adding the transfers together (a total of \$30,000) and dividing by the FPL (\$1,111). The penalty period is 27 months, beginning in January.

(2) When Penalty Periods Would Not Overlap

When multiple transfers are made in such a way that the penalty periods for each would not overlap, the Worker must treat each transfer as a separate event, with its own penalty period.

All penalties for transferred assets run consecutively.

b. Length of Penalty

The penalty period lasts for the number of whole months determined by the following calculation:

Total amount transferred during the look-back period divided by 100% of the current FPL for the benefit group size.

When the amount of the transfer is less than the FPL amount, no penalty is applied until a series of transfers totals more than the FPL amount.

The penalty runs continuously from the first day of the penalty period, whether or not the client continues to receive benefits.

There is no maximum or minimum number of months a penalty may be applied.

c. Who Is Affected By the Penalty

The WV WORKS benefit group is affected by any transfer described above when any benefit group member, disqualified individual or any entity acting on behalf of or at the discretion of a member or a disqualified individual transfers an asset.

When the benefit group splits into 2 or more groups, the remaining penalty period is divided equally between the adults included in the WV WORKS benefit. A recording in each affected case must specifically explain the division of the penalty period.

EXAMPLE: Mr. and Mrs. Green received WV WORKS for themselves, Mrs. Green's 3 children from a previous marriage and Mr. Green's nephew. Mr. Green transferred an asset for less than FMV, and a 10-month penalty was imposed from February through November. Mr. Green leaves the home in April and Mrs. Green reapplies for WV WORKS. Mrs. Green continues to be ineligible. However, because Mr. and Mrs. Green no longer live together, they each carry one-half of the remaining penalty period with them. Mrs. Green remains ineligible through July. There are 8 months remaining in the

penalty period. Both have already been ineligible as a unit for February and March. Mrs. Green becomes ineligible beginning in April for 4 additional months. If Mr. Green reapplies, he will also be determined ineligible through July. If the children begin living with other adults, no part of the transfer penalty follows them, unless they live in the home with Mr. and/or Mrs. Green.

NOTE: When the number of months remaining in the penalty period does not divide evenly by the number of adults who were included in the benefit group, a portion of the appropriate 100% FPL is counted as income after the penalty months have been served.

EXAMPLE: Same situation as in the above example except that 7 months are remaining in the penalty period when Mr. Green leaves. The benefit groups containing Mr. Green and Mrs. Green are both ineligible for 3 months. In addition, \$895 (100% FPL for 6 people = \$1,791 ÷ 2) is counted as income for each of the adults in the 4th month.

8. Treatment Of Jointly Owned Assets

Jointly owned assets include assets held by an individual in common with at least one other person by joint tenancy, tenancy in common, joint ownership or any similar arrangement. Such an asset is considered to be transferred by the individual when any action is taken, either by the individual or any other person, that reduces or eliminates the individual's ownership or control of the asset.

Under this policy, merely placing another person's name on an account or asset as a joint owner might not constitute a transfer of assets, depending upon the specific circumstances involved. In such a situation, the client may still possess ownership rights to the account or asset and, thus, have the right to withdraw all of the funds at any time. The account, then, still belongs to the client. However, actual withdrawal of funds from the account, or removal of all or part of the asset by another person, removes the funds or property from the control of the client, and, thus, is a transfer of assets. In addition, if placing another person's name on the account or asset actually limits the

client's right to sell or otherwise dispose of it, the addition of the name constitutes a transfer of assets.

If either the client or the other person proves that the funds withdrawn were the sole property of the other person, the withdrawal does not result in a penalty.



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BOOK FOR HODGE		DHHR	Pick Up

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